

Before the Board of Zoning Adjustment, D.C.

PUBLIC HEARING -- January 17, 1968

Appeal No. 9486 Katharine Miller Brennan et al, appellants.

The Zoning Administrator of the District of Columbia, appellee.

On motion duly made, seconded and unanimously carried, the following Order was entered at the meeting of the Board on January 24, 1968.

ORDERED:

That the appeal for permission to construct a community' swimming pool and allow alteration of existing building for additional facilities or in the alternative variance from the use provisions of the R-1-B District to permit same at 45th and Macomb Streets, NW., lots 1,2,3, square 1603, be denied.

FINDINGS OF FACT:

- (1) The subject property is located in an R-1-B District.
- (2) The property consists of three lots, each 25 x 150 feet, improved with a large two-story brick structure containing a grocery store and a drugstore on the first floor and a club room on the second floor. The lots have a combined area of 11,250 square feet. The building covers 2,728 square feet leaving 8,522 square feet of vacant land.
- (3) The second floor has been used by the Wesley Heights Community Club for approximately 47 years.
- (4) The object and purposes of the Club as stated in its By-Laws (BZA Exhibit No. 62) are:

"To promote social intercourse and friendship among the residents of the Communities or Sub-divisions in the District of Columbia known as Wesley Heights and Spring Valley, and in Maryland known as Sumner, Spring Hill and Potomac Falls.

"To promote the mutual interests of the members in the improvement and betterment of the communities in which they live.

"To cooperate with the civic authorities and organizations for the general advancement and betterment of the District of Columbia."

(5) Article III sets forth the membership requirements:

"Membership in this Club is open to any person, male or female, over the age of 18 years, who is a resident of the communities or sub-divisions of the District of Columbia known as Wesley Heights and Spring Valley and in Maryland known as Sumner and Spring Hill and Potomac Falls, who shall be proposed and duly elected to membership by a majority of the Governors. Such membership is available on an individual or family basis. A family is considered to consist of husband and wife, and dependent parents or children residing in their home."

(6) On January 21, 1968 Article III of the By-Laws was amended to delete that portion of the Article following the word Falls through the word Governors.

(7) Article V, Section 1 provides for a Board of Governors.

"Section 1. The Board of Governors shall consist of eighteen (18) members, four (4) of whom shall be the Officers of the Club. Members of the Board shall be elected as hereinafter provided, each to serve for a term of three (3) years. Nine (9) members present shall constitute a quorum and, in all voting, a majority thereof shall prevail."

(8) The Club's President stated that the Wesley Heights Community Club now has approximately 250 family memberships, with annual dues of \$12.

(9) Among the activities of the Club are social dancing lessons for children, square dancing, art classes, and a Christmas Party. The Club is also available for various meetings and used by members for purely private social functions.

(10) Section 1202 of the Zoning Regulations defines a private club as follows: "A building or portion thereof used by an association organized for the promotion of a common social objective and not for profit, whose facilities are limited to its members and their guests. Such building may or may not include facilities for the preparation and service of meals and alcoholic beverages, and rooms or suites of rooms for residential occupancy."

(11) The Zoning Regulations do not define a community center building. However, Webster's Unabridged Dictionary defines a community center as "a place used as a center for, or an organization promoting, educational, philanthropic, or other work for the betterment of a community."

(12) It is proposed to construct a swimming pool (67' x 35') and a wading pool (approximately 18' at widest point) on the rear portion of the subject property.

(13) The subject property is adjacent the Horace Mann Elementary School, a District of Columbia public school, and close to the campus of the American University. By letter dated January 16, 1968 (BZA Exhibit No. 75) appellant was told that the University "pool is not available for general recreational use by the public at any time of the year."

(14) Appellant states that the Club desires eventually to purchase the subject property with the improvements. In accord with this aim, 124 pledges to support the financing of the pool and the purchase of the building have been made. The pledges amount to \$300 each. The anticipated cost of the pool is \$18,000 to \$20,000.

(15) After establishment of the pool the Club will have two categories of membership. Regular membership will be \$12 per year and the pool membership assessment will be \$50 per year. A dual membership will be \$60 per year.

(16) The Club presently uses the premises under Certificate of Occupancy No. B-43759 dated June 17th 1965 authorizing use by Wesley Heights Community Club (a corporation) of the first and second floors for the purpose of a Club Room.

(17) A number of persons appeared at the public hearings to support this appeal and there were ~~persons present in opposition~~. The record contains 25 telegrams and 26 letters supporting this appeal and 21 letters opposing the appeal.

(18) The objections to the proposed pool relate to the increased traffic problems, noise, other nuisance factors and that the Club, with or without the pool, is not a community organization under Section 3101.45 of the Regulations.

(19) The Spring Valley-Wesley Heights Citizens Association favors the granting of this appeal provided four requirements are met, which are:

- "(1) That the Spring Valley-Wesley Heights Community Club holds title to the property.
- "(2) That the Spring Valley-Wesley Heights Community Club provide proof that it has the financial ability to build and operate the pool indefinitely.
- "(3) That the Spring Valley-Wesley Heights Community Club can demonstrate that a substantial majority of the surrounding neighborhood property owners of the club are in favor of constructing the swimming pool.
- "(4) That the Club agrees to operate the pool during reasonable hours, such as 9 a.m. to 9 p.m., that amplification equipment not be used to disturb the neighbors, and that lights be placed in such a manner that they cannot be seen by the surrounding residential neighbors. The pool must be screened from the street by trees and shrubs."

(20) On January 31, 1968 the Board caused a short form of Order to be issued denying the appeal.

(21) On February 14, 1968 appellant requested the Board to reconsider its decision or grant a rehearing of the appeal. At its executive session on February 29, 1968 the Board, by unanimous vote, denied the request for rehearing or reconsideration on the grounds that there was no showing that there was new evidence that was not or could not have reasonably been presented at the original hearing.

OPINION:

The appeal for a variance from the use provisions of the R-1-B District to permit construction and use of the swimming pool must be denied as appellant has made no case whatever which would support a finding that the property in question cannot be used for its zoned purpose.

The alternative request is for permission to establish the swimming pool as a "community center" swimming pool under Section 3101.45 and in order to grant the appeal, the Board must make all of the findings required by that section and, in addition, must find all of the conditions required by Section 3207.2 of the Regulations. We are unable to do so, and therefore the appeal for an exception must also be denied.

Without discussing other requirements of Section 3101.45 it is enough to say that the Board believes that a swimming pool conducted at this location and without any on-site parking will become objectionable to the adjacent residential district because of noise and traffic. The site is not sufficiently large to provide a large area surrounding the pool and segregating it from the adjacent homes and other buildings and the Board believes that the usual noise attendant to a swimming pool would become very objectionable and would tend to affect adversely the expected and intended use of the adjacent residentially zoned property.

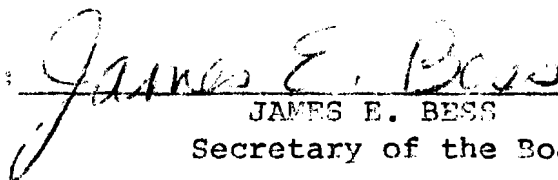
In addition, the Board cannot find that the proposed use will be reasonably necessary or convenient to the neighborhood in which it is proposed to be located. It may be conceded that the pool would be necessary or convenient to the members of the Wesley Heights Community Club, but that organization is not the same as, or co-extensive with, the neighborhood and the Board is therefore unable to make the finding of fact required by paragraph (d) of Section 3101.45 of the Regulations.

The Appeal is Therefore Denied.

BY ORDER OF THE D.C. BOARD OF ZONING ADJUSTMENT

ATTESTED:

By:



JAMES E. BESS

Secretary of the Board